

Employers – Hours of work

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Hours of work

As an employer, the first thing you need to know is that an employee's normal hours of work must be agreed on by both you and the employee, and noted in a written employment agreement. The employment agreement must not require the employee to work more than 40 hours per week (not including overtime), unless both the employer and employee agree otherwise.

Overtime

Depending on the circumstances, an employee may be entitled to receive extra payment if their employer asks them to work more than their normal hours. The arrangement needs to be agreed on by the employer and the employee. This should be put into the employment agreement so that both parties are clear.

For more information, you should refer to the 'hours of work' section at employment.govt.nz.

Note: Also, employers and employees need to take all practicable steps to ensure the health and safety of everyone in their workplace, and this includes safe working hours and avoiding fatigue.

Changing hours of work

Cutting back or increasing hours

As an employer, from time to time you may want to change your employee's hours of work by reducing or increasing the number of hours. In relation to employment agreements and changing hours:

- If the employee has their hours of work noted in an employment agreement, then an employer can't change those hours without the employee's agreement.
- Even if the employment agreement says that an employer can change the employee's hours of work, the employer still has to act fairly and reasonably before they do so.
- If you change your employee's hours of work, you shouldn't disadvantage them or be unfair, and the reasons for the change must be genuine.
- Once any changes are agreed on by both the employer and employee, they need to be noted in the employment agreement.

Redundancy

In situations of financial, commercial or economic problems, or restructuring of the employer's business, the employer may look at changing an employee's hours of work as an alternative to redundancy. The employer must follow the usual process for organisational change, which includes giving the employee a fair opportunity to consider and respond to the proposed change.

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Changing hours of work continued

Cancellation of shifts

Cancellation of shifts is a complicated matter and rules apply. You need to be aware that employers can only cancel a shift with reasonable notice, otherwise they must provide compensation to the employee.

To understand your employer obligations fully, you need to refer to the 'hours of work' section at employment.govt.nz. This includes these topics: 'Cutting back or increasing hours', 'Saying no to work' and 'Cancellation of shifts'.

Flexible working arrangements

Employees can ask to change their work arrangements, place, hours, or days. Employers must consider this. All employees can ask at any time to change their hours of work (over a day, a week or year), days of work and place of work.

The employee's request must be in writing, such as by letter or email, or by using the form available from employment.govt.nz. As an employer, once you've considered your employee's request for flexible working arrangements, you must respond and let them know your decision in writing.

Hours of work employment agreement terms

Where the employer and employee agree to a set amount of hours of work, those hours must be stated in the employment agreement. This includes the number of hours, the start and finish times and the days of the week the employee will work.

For more information, you should refer to the 'What you need to know' section on the 'hours of work law changes 2016' page at employment.govt.nz.

Rest and meal breaks

Employees must have rest and meal breaks, or reasonable compensation if they don't. Rest breaks benefit workplaces by helping employees work safely and productively. There are no specific rules for when or how long rest and meal breaks should be.

Common practice is that rest breaks are 10 to 15 minutes long and meal breaks are at least 30 minutes long, but these times vary across industries and occupations. If you are unsure what the general practice is in your industry, you can check with your relevant industry association.

To learn more about your obligations in regards to rest and breaks, you should refer to the 'Rest and meal breaks' section at employment.govt.nz. H2: Employees under 16

As an employer, you need to be aware that slightly different laws about allowable working hours apply to employees under the age of 16, compared with adult employees.

Restrictions on hours worked for under 16s

- Their employment must not interfere with or prevent them from attending school.
- They can't work during school hours, after 10pm on school nights or before 6am on school days.
- They can work any hours at the weekends or during school holidays, and during week days they can work before or after school.

These are just a few of the restrictions that apply to young employees. To see more detailed information, refer to the 'Young employees' section at employment.govt.nz. This section includes notes on other work restrictions for employees from under 14 to under 20.

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Removal of zero hours contracts

Since 1 April 2016, employers must provide employees both guaranteed hours of work and reasonable compensation for being available to work. 'Zero hour contracts' are now unlawful. Employers are now prohibited from any of the following practices:

- not committing to any hours of work (zero hours) and expecting employees to be available when required
- expecting employees to be available, without reasonable compensation
- requiring employees to be available, without a genuine reason based on reasonable grounds
- cancelling a shift without reasonable notice or reasonable compensation to the employee
- putting unreasonable restrictions on secondary employment of employees
- making unreasonable deductions from employees' wages.

For full details of the changes, you need to refer to the 'hours of work law changes 2016' section at employment.govt.nz.

More information

The Employment New Zealand site provides detailed information on employment rights and obligations: Go to www.employment.govt.nz – the leading source of information on employment in New Zealand.

If you still need information call the Employment New Zealand phone line on 0800 20 90 20 toll free. A translation service is available. You can make contact anonymously or via a third party.

These services are available to you free of charge.

About the MBIE Employment Learning Modules Fact Sheets

This fact sheet is designed to support a series of learning modules (including interactive quizzes) about minimum employment rights provided free of charge by MBIE. We encourage you to have a look at these modules to learn even more about your employment obligations.

Legal disclaimer:

The modules are designed to provide a brief overview of key points only, to encourage further learning, and refer to more detailed information at employment.govt.nz.

- The modules do not purport to be a qualification and do not infer that any legal competence has been attained.
- It remains the responsibility of any person who has completed any module to comply with all legal requirements applicable to them under New Zealand law.
- MBIE encourages all users to familiarise themselves with relevant New Zealand law. Where this is not practical or the user is unsure of any legal aspect they are advised to obtain suitable professional advice."